

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2008-0300-MLM-E TCEQ ID: RN102983301 CASE NO.: 35239**  
**RESPONDENT NAME: Joel Bazan dba Bazan Scrap Tire Facility**

Page 1 of 3

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> <b>1660 AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS ORDER FOLLOWING SOAH HEARING</b>
<input type="checkbox"/> <b>FINDINGS DEFAULT ORDER</b>	<input type="checkbox"/> <b>SHUTDOWN ORDER</b>	<input type="checkbox"/> <b>IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER</b>
<input type="checkbox"/> <b>AMENDED ORDER</b>	<input type="checkbox"/> <b>EMERGENCY ORDER</b>	
<b>CASE TYPE:</b>		
<input checked="" type="checkbox"/> <b>AIR</b>	<input checked="" type="checkbox"/> <b>MULTI-MEDIA (check all that apply)</b>	<input type="checkbox"/> <b>INDUSTRIAL AND HAZARDOUS WASTE</b>
<input type="checkbox"/> <b>PUBLIC WATER SUPPLY</b>	<input type="checkbox"/> <b>PETROLEUM STORAGE TANKS</b>	<input type="checkbox"/> <b>OCCUPATIONAL CERTIFICATION</b>
<input type="checkbox"/> <b>WATER QUALITY</b>	<input type="checkbox"/> <b>SEWAGE SLUDGE</b>	<input type="checkbox"/> <b>UNDERGROUND INJECTION CONTROL</b>
<input checked="" type="checkbox"/> <b>MUNICIPAL SOLID WASTE</b>	<input type="checkbox"/> <b>RADIOACTIVE WASTE</b>	<input type="checkbox"/> <b>DRY CLEANER REGISTRATION</b>
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Bazan Scrap Tire Facility, approximately 2.5 miles south of the intersection of State Highway 716 and County Road 245, Concepcion, Duval County</p> <p><b>TYPE OF OPERATION:</b> Unauthorized tire storage facility</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on August 25, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. Colin Barth, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-0086; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  <b>Respondent:</b> Mr. Joel Bazan, Owner, Bazan Scrap Tire Facility, P.O. Box 84, Concepcion, Texas 78349  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

TEXAS  
 COMMISSION  
 ON ENVIRONMENTAL  
 QUALITY  
 2008 SEP 22 11:11:29  
 CHIEF CLERKS OFFICE

DOCKET NO.: 2008-0300-MLM-E

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> November 1, 2007</p> <p><b>Date of NOV/NOE Relating to this Case:</b> December 13, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WASTE</b></p> <p>1) Failure to obtain a scrap tire storage registration for storing more than 500 scrap or used tires on the ground. Specifically, approximately 20,000 tires were being stored on the ground at the Site [30 TEX. ADMIN. CODE §§ 328.56(d)(2) and 328.60(a) and TEX. HEALTH &amp; SAFETY CODE § 361.112(a)].</p> <p>2) Failure to transport used tires to an authorized site. Specifically, the Respondent transported approximately 20,000 used and/or scrap tires to his property which was not authorized for disposal or storage of used tires [30 TEX. ADMIN. CODE § 328.57(c)(3) and TEX. HEALTH &amp; SAFETY CODE § 361.112(c)].</p> <p>3) Failure to prevent the unauthorized disposal of municipal solid waste. Specifically, approximately three cubic yards of municipal solid waste including tires, household waste, wire, chain link fencing and a faucet, were disposed of at the property without authorization [30 TEX. ADMIN. CODE § 330.15(c)].</p> <p><b>AIR</b></p> <p>4) Failure to comply with the general prohibition on outdoor burning. Specifically, the Respondent failed to prevent approximately two cubic yards of waste including tires, household waste,</p>	<p><b>Total Assessed:</b> \$10,054</p> <p><b>Total Deferred:</b> \$2,010  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid (Due) to General Revenue:</b> \$204 (remaining \$7,840 due in 35 monthly payments of \$224 each)</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Immediately upon the effective date of this Agreed Order:</p> <p>i. Cease disposing of any additional waste at the Site;</p> <p>ii. Cease all unauthorized burning of wastes;</p> <p>iii. Cease accepting or transporting any additional tires, until properly authorized;</p> <p>b. Within 15 days after the effective date of this Agreed Order, obtain a scrap tire storage registration or reduce the number of tires being stored on-site to 500 or less on the ground and/or 2,000 tires in enclosed and lockable containers;</p> <p>c. Within 60 days after the effective date of this Agreed Order, remove all waste materials on-site and dispose of the waste at a permitted municipal solid waste disposal site; and</p> <p>d. Within 75 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a. through c.</p>

wire, chain link fencing and a faucet, from igniting and burning at the Site [30 TEX. ADMIN. CODE § 111.201 and TEX. HEALTH & SAFETY CODE § 382.085(b)].		
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Additional ID No(s): MSW Non permitted ID No. UNA455160075





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision January 29, 2008

TCEQ

DATES	Assigned	17-Dec-2007
	PCW	16-Feb-2008
	Screening	7-Jan-2008
	EPA Due	

## RESPONDENT/FACILITY INFORMATION

Respondent	Joel Bazan dba Bazan Scrap Tire Facility		
Reg. Ent. Ref. No.	RN102983301		
Facility/Site Region	16-Laredo	Major/Minor Source	Major

## CASE INFORMATION

Enf./Case ID No.	35239	No. of Violations	4
Docket No.	2008-0300-MLM-E	Order Type	1660
Media Program(s)	Waste Tires	Enf. Coordinator	Colin Barth
Multi-Media	Air, Municipal Solid Waste	EC's Team	Enforcement Team 7
Admin. Penalty \$	Limit Minimum	\$0	Maximum
		\$10,000	

## Penalty Calculation Section

### TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 **\$10,000**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **0% Enhancement** Subtotals 2, 3, & 7 **\$0**

Notes The Respondent has no prior orders or NOV's at this Site within the past five years.

Culpability **No** **0% Enhancement** Subtotal 4 **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply **0% Reduction** Subtotal 5 **\$0**

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes The Respondent does not meet the good faith criteria.

Total EB Amounts	\$1,231
Approx. Cost of Compliance	\$27,335

**0% Enhancement\***  
 \*Capped at the Total EB \$ Amount
Subtotal 6 **\$0**

### SUM OF SUBTOTALS 1-7

Final Subtotal **\$10,000**

### OTHER FACTORS AS JUSTICE MAY REQUIRE

Reduces or enhances the Final Subtotal by the indicated percentage.

**1%**Adjustment **\$54**

Notes Recommended adjustment to capture the avoided cost associated with the violations.

Final Penalty Amount **\$10,054**

### STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty **\$10,054**

### DEFERRAL

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**20%**

Reduction

Adjustment **-\$2,010**

Notes Deferral offered for expedited settlement.

### PAYABLE PENALTY

**\$8,044**

Screening Date 7-Jan-2008

Docket No. 2008-0300-MLM-E

PCW

Respondent Joel Bazan dba Bazan Scrap Tire Facility

Policy Revision 2 (September 2002)

Case ID No. 35239

PCW Revision January 29, 2008

Reg. Ent. Reference No. RN102983301

Media [Statute] Waste Tires

Enf. Coordinator Colin Barth

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

The Respondent has no prior orders or NOVs at this Site within the past five years.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 0%

**Screening Date** 7-Jan-2008 **Docket No.** 2008-0300-MLM-E **PCW**  
**Respondent** Joel Bazan dba Bazan Scrap Tire Facility *Policy Revision 2 (September 2002)*  
**Case ID No.** 35239 *PCW Revision January 29, 2008*

**Reg. Ent. Reference No.** RN102983301

**Media [Statute]** Waste Tires

**Enf. Coordinator** Colin Barth

**Violation Number**

1

**Rule Cite(s)** 30 Tex. Admin. Code §§ 328.56(d)(2) and 328.60(a) and Tex. Health & Safety Code 361.112(a)

**Violation Description**

Failed to obtain a scrap tire storage registration for storing more than 500 scrap or used tires on the ground, as documented during an investigation conducted on November 1, 2007. Specifically, approximately 20,000 tires were being stored on the ground at the site.

**Base Penalty** \$10,000

### >> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

**Percent** 0%

### >> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

**Percent** 25%

**Matrix Notes**

100% of the rule requirement was not met.

**Adjustment** \$7,500

\$2,500

### Violation Events

**Number of Violation Events** 1

67

**Number of violation days**

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

**Violation Base Penalty** \$2,500

One quarterly event is recommended from the November 1, 2007 investigation to the January 7, 2008 screening date.

### Economic Benefit (EB) for this violation

### Statutory Limit Test

**Estimated EB Amount** \$1,174

**Violation Final Penalty Total** \$2,514

**This violation Final Assessed Penalty (adjusted for limits)** \$2,514

## Economic Benefit Worksheet

**Respondent** Joel Bazan dba Bazan Scrap Tire Facility  
**Case ID No.** 35239  
**Reg. Ent. Reference No.** RN102983301  
**Media** Waste Tires  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal	\$27,200	1-Nov-2007	11-Sep-2008	0.9	\$1,174	n/a	\$1,174
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to properly dispose of 20,000 scrap tires. Tire disposal estimates were calculated using disposal costs of \$80 per ton multiplied by the approximate weight of 20,000 tires at 340 tons. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$27,200

TOTAL

\$1,174



**Screening Date** 7-Jan-2008  
**Respondent** Joel Bazan dba Bazan Scrap Tire Facility  
**Case ID No.** 35239  
**Reg. Ent. Reference No.** RN102983301  
**Media [Statute]** Waste Tires  
**Enf. Coordinator** Colin Barth  
**Violation Number** 2  
**Rule Cite(s)**

**Docket No.** 2008-0300-MLM-E**PCW**

Policy Revision 2 (September 2002)

PCW Revision January 29, 2008

**Violation Description**

Failed to transport used tires to an authorized site, as documented during an investigation conducted on November 1, 2007. Specifically, the Respondent transported approximately 20,000 used and/or scrap tires to his property which was not authorized for disposal or storage of used tires.

**Base Penalty** \$10,000>> **Environmental, Property and Human Health Matrix**

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential		x	

**Percent** 25%>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor

**Percent** 0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

**Adjustment** \$7,500

\$2,500

**Violation Events**

Number of Violation Events 1

67 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

**Violation Base Penalty** \$2,500

One quarterly event is recommended from the November 1, 2007 investigation to the January 7, 2008 screening date.

**Economic Benefit (EB) for this violation****Statutory Limit Test****Estimated EB Amount** \$0**Violation Final Penalty Total** \$2,514**This violation Final Assessed Penalty (adjusted for limits)** \$2,514

## Economic Benefit Worksheet

Respondent Joel Bazan dba Bazan Scrap Tire Facility

Case ID No. 35239

Reg. Ent. Reference No. RN102983301

Media Waste Tires

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<small>No commas or \$</small>							

**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Economic benefit already estimated in Violation #1.

**Avoided Costs****ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

<b>Screening Date</b>	7-Jan-2008	<b>Docket No.</b>	2008-0300-MLM-E	<b>PCW</b>
<b>Respondent</b>	Joel Bazan dba Bazan Scrap Tire Facility			Policy Revision 2 (September 2002)
<b>Case ID No.</b>	35239			PCW Revision January 29, 2008
<b>Reg. Ent. Reference No.</b>	RN102983301			
<b>Media [Statute]</b>	Waste Tires			
<b>Enf. Coordinator</b>	Colin Barth			
<b>Violation Number</b>	<input type="text" value="3"/>			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 111.201 and Tex. Health & Safety Code § 382.085(b)			
<b>Violation Description</b>	<p>Failed to comply with the general prohibition on outdoor burning, as documented during an investigation conducted on November 1, 2007. Specifically, the Respondent failed to prevent approximately two cubic yards of waste including tires, household waste, wire, chain link fencing and a faucet, from igniting and burning at the Site.</p>			
<b>Base Penalty</b>	<input type="text" value="\$10,000"/>			

## &gt;&gt; Environmental, Property and Human Health Matrix

OR		<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor	
	<b>Actual</b>	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="x"/>	<b>Percent</b> <input type="text" value="25%"/>
<b>Potential</b>	<input type="text"/>	<input type="text"/>	<input type="text"/>		

## &gt;&gt; Programmatic Matrix

	<b>Falsification</b>	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment 

## Violation Events

Number of Violation Events   Number of violation days

mark only one with an x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="text" value="x"/>

Violation Base Penalty 

One single event is recommended.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount Violation Final Penalty Total This violation Final Assessed Penalty (adjusted for limits)

## Economic Benefit Worksheet

**Respondent** Joel Bazan dba Bazan Scrap Tire Facility  
**Case ID No.** 35239  
**Reg. Ent. Reference No.** RN102983301  
**Media** Waste Tires  
**Violation No.** 3

**Percent Interest** 5.0  
**Years of Depreciation** 15

**Item Cost**   **Date Required**   **Final Date**   **Yrs**   **Interest Saved**   **Onetime Costs**   **EB Amount**  
**Item Description** No commas or \$

### Delayed Costs

Equipment			0.0	\$0	\$0	\$0
Buildings			0.0	\$0	\$0	\$0
Other (as needed)			0.0	\$0	\$0	\$0
Engineering/construction			0.0	\$0	\$0	\$0
Land			0.0	\$0	n/a	\$0
Record Keeping System			0.0	\$0	n/a	\$0
Training/Sampling			0.0	\$0	n/a	\$0
Remediation/Disposal			0.0	\$0	n/a	\$0
Permit Costs			0.0	\$0	n/a	\$0
Other (as needed)			0.0	\$0	n/a	\$0

Notes for DELAYED costs

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal			0.0	\$0	\$0	\$0
Personnel			0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.0	\$0	\$0	\$0
Supplies/equipment			0.0	\$0	\$0	\$0
Financial Assurance [2]			0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$54	1-Nov-2007	1-Nov-2007	0.0	\$0	\$54
Other (as needed)			0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to dispose of approximately 2 cubic yards of waste at a permitted municipal solid waste landfill.  
 The Date Required and the Final Date is the date of the investigation.

Approx. Cost of Compliance

\$54

TOTAL

\$54

**Screening Date** 7-Jan-2008 **Docket No.** 2008-0300-MLM-E **PCW**  
**Respondent** Joel Bazan dba Bazan Scrap Tire Facility *Policy Revision 2 (September 2002)*  
**Case ID No.** 35239 *PCW Revision January 29, 2008*  
**Reg. Ent. Reference No.** RN102983301  
**Media [Statute]** Waste Tires  
**Enf. Coordinator** Colin Barth  
**Violation Number** 4

**Rule Cite(s)** 30 Tex. Admin. Code § 330.15(c)

**Violation Description**

Failed to prevent the unauthorized disposal of municipal solid waste, as documented during an investigation conducted on November 1, 2007. Specifically, approximately three cubic yards of municipal solid waste including tires, household waste, wire, chain link fencing and a faucet, were disposed of at the property without authorization.

**Base Penalty** \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			x
Potential			

**Percent** 25%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

**Percent** 0%

**Matrix Notes**

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

**Adjustment** \$7,500

\$2,500

**Violation Events**

**Number of Violation Events** 1

67 **Number of violation days**

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

**Violation Base Penalty** \$2,500

One quarterly event is recommended from the November 1, 2007 investigation to the January 7, 2008 screening date.

**Economic Benefit (EB) for this violation****Statutory Limit Test**

**Estimated EB Amount** \$3

**Violation Final Penalty Total** \$2,514

**This violation Final Assessed Penalty (adjusted for limits)** \$2,514

## Economic Benefit Worksheet

**Respondent** Joel Bazan dba Bazan Scrap Tire Facility  
**Case ID No.** 35239  
**Reg. Ent. Reference No.** RN102983301  
**Media** Waste Tires  
**Violation No.** 4

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal	\$81	1-Nov-2007	11-Sep-2008	0.9	\$3	n/a	\$3
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

**Notes for DELAYED costs** Estimated cost to dispose of approximately 3 cubic yards of waste at a permitted municipal solid waste landfill.  
 The Date Required is the investigation date and the Final Date is the estimated date of compliance.

<b>Avoided Costs</b>							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance	\$81	<b>TOTAL</b>	\$3
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## Compliance History

Customer/Respondent/Owner-Operator: CN601526411 BAZAN, JOEL Classification: AVERAGE Rating: 1.67  
Regulated Entity: RN102983301 BAZAN SCRAP TIRE FACILITY Classification: AVERAGE Site Rating: 1.67  
ID Number(s): MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER UNA455160075  
Location: 2.5 MILES S. OF THE INTERSECTION OF HW 716 AND CR 245, CONCEPCION, TX, 78349 Rating Date: 9/1/2007 Repeat Violator: NO  
TCEQ Region: REGION 16 - LAREDO  
Date Compliance History Prepared: February 27, 2008  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: February 27, 2003 to February 27, 2008  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Colin Barth Phone: (512) 239-0086

### Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)  
1 07/02/2003 (60305)  
N/A  
2 11/17/2003 (255122)  
3 12/13/2007 (611890)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- F. Environmental audits.  
N/A
- G. Type of environmental management systems (EMSs).  
N/A
- H. Voluntary on-site compliance assessment dates.  
N/A
- I. Participation in a voluntary pollution reduction program.  
N/A
- J. Early compliance.  
N/A
- Sites Outside of Texas  
N/A





# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

2008 SEP 22 AM 11:29

CHIEF CLERK'S OFFICE

IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
JOEL BAZAN DBA BAZAN SCRAP  
TIRE FACILITY  
RN102983301

§  
§  
§  
§  
§

BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2008-0300-MLM-E

### I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Joel Bazan dba Bazan Scrap Tire Facility ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE chs. 361 and 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a unauthorized tire storage facility located approximately 2.5 miles south of the intersection of State Highway 716 and County Road 245 in Concepcion, Duval County, Texas (the "Site").
2. The Site involves or involved the management of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361, and consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about December 18, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.



6. An administrative penalty in the amount of Ten Thousand Fifty-Four Dollars (\$10,054) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Hundred Four Dollars (\$204) of the administrative penalty and Two Thousand Ten Dollars (\$2,010) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Seven Thousand Eight Hundred Forty Dollars (\$7,840) of the administrative penalty shall be payable in 35 monthly payments of Two Hundred Twenty-Four Dollars (\$224) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Site, the Respondent is alleged to have:

1. Failed to obtain a scrap tire storage registration for storing more than 500 scrap or used tires on the ground, in violation of 30 TEX. ADMIN. CODE §§ 328.56(d)(2) and 328.60(a) and TEX. HEALTH & SAFETY CODE § 361.112(a), as documented during an investigation conducted on



November 1, 2007. Specifically approximately 20,000 tires were being stored on the ground at the Site.

2. Failed to transport used tires to an authorized site, in violation of 30 TEX. ADMIN. CODE § 328.57(c)(3) and TEX. HEALTH & SAFETY CODE § 361.112(c), as documented during an investigation conducted on November 1, 2007. Specifically, the Respondent transported approximately 20,000 used and/or scrap tires to his property which was not authorized for disposal or storage of used tires.
3. Failed to comply with the general prohibition on outdoor burning, in violation of 30 TEX. ADMIN. CODE § 111.201 and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on November 1, 2007. Specifically, the Respondent failed to prevent approximately two cubic yards of waste including tires, household waste, wire, chain link fencing and a faucet, from igniting and burning at the Site.
4. Failed to prevent the unauthorized disposal of municipal solid waste, in violation of 30 TEX. ADMIN. CODE § 330.15(c), as documented during an investigation conducted on November 1, 2007. Specifically, approximately three cubic yards of municipal solid waste including tires, household waste, wire, chain link fencing and a faucet, were disposed of at the property without authorization.

### **III. DENIALS**

The Respondent generally denies each allegation in Section II ("Allegations").

### **IV. ORDERING PROVISIONS**

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Joel Bazan dba Bazan Scrap Tire Facility, Docket No. 2008-0300-MLM-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Agreed Order:
    - i. Cease disposing of any additional waste at the Site;



- ii. Cease all unauthorized burning of waste;
- iii. Cease accepting or transporting any additional tires, until properly authorized;
- b. Within 15 days after the effective date of this Agreed Order, obtain a scrap tire storage registration or reduce the number of tires being stored on-site to 500 or less on the ground and/or 2,000 tires in enclosed and lockable containers, in accordance with 30 TEX. ADMIN. CODE §§ 328.56 and 328.60;
- c. Within 60 days after the effective date of this Agreed Order, remove all waste materials on-site and dispose of the waste at a permitted municipal solid waste disposal site; and
- d. Within 75 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.c. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Waste Section Manager  
Laredo Regional Office  
Texas Commission on Environmental Quality  
1403 Seymour, Suite 2  
Laredo, Texas 78040-8752

- 3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.






4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

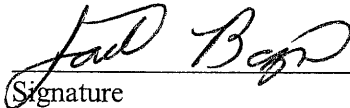
9/4/2008  
\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
\_\_\_\_\_  
Signature

6-10-08  
\_\_\_\_\_  
Date

Joel BAZAN  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Joel Bazan dba Bazan Scrap Tire Facility

\_\_\_\_\_  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

